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Ex Parte

VIA ECFS

Ms. Marlene H. Dortch Secretary Federal Communications Commission 445 12th Street, SW Washington, DC 20554

Re: <u>Applications of Sprint Nextel Corporation and SoftBank Corp., IB Docket No. 12-343; Policies Regarding Mobile Spectrum Holdings, WT Docket No. 12-269</u>

Dear Ms. Dortch:

This proceeding involves applications to transfer control of Clearwire, which uses Broadband Radio Service/Educational Broadband Service ("BRS/EBS") spectrum to provide mobile services to the public. Verizon Wireless and other parties have demonstrated that BRS/EBS spectrum easily meets the Commission's standard for inclusion in the mobile services spectrum screen: not only is it available, but it is in use. Just as the Commission recently added Wireless Communications Spectrum ("WCS") spectrum to the screen when approving the transfer of WCS spectrum, it should add the BRS/EBS spectrum when acting on the Clearwire transaction.

On February 26, the Commission's Wireless Telecommunications Bureau and the Office of Engineering & Technology released the *FCC White Paper, The Mobile Broadband Spectrum Challenge: International Comparisons*. The White Paper confirms that the full 194 MHz of BRS/EBS spectrum is available for mobile broadband services and thus should be added to the spectrum screen. Specifically, the White Paper identifies the full 194 MHz of BRS/EBS

¹ See Comments of Verizon Wireless, WT Docket No. 12-269, at 22-27 (Nov. 28, 2012); Comments of Verizon Wireless, IB Docket No. 12-343, at 2-11 (Jan. 28, 2013); Consolidated Reply to Oppositions of the Consortium for Public Education and The Roman Catholic Diocese of Erie, Pennsylvania, IB Docket No. 12-343, at 1-11 (Feb. 25, 2013); Reply Comments of DISH Network, L.L.C., IB Docket No. 12-343, at 4, 12-13, 16-19 (Feb. 25, 2013); Comments of EBS Licensees Supporting Verizon Request, IB Docket No. 12-343, at 1-7 (Feb. 12, 2013); see also Petition to Deny of Taran Asset Management, IB Docket No. 12-343, at 9 (Jan. 19, 2013).

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spectrum as among the "most commonly deployed mobile broadband spectrum bands" in the United States.² And it includes the 194 MHz in its entirety in the amount of licensed spectrum – 608 MHz – that is "available for mobile broadband" in this country.³ Indeed, BRS/EBS constitutes by far the largest component of that 608 MHz.

The White Paper's findings underscore that there is no basis to continue to exclude the remaining BRS/EBS spectrum from the spectrum screen. It would be inconsistent for the Commission to rely on BRS/EBS in finding that the United States has made more spectrum *available* than nearly all other countries, while continuing to treat that same spectrum as unsuitable and *unavailable* for purposes of the spectrum screen.

The Commission should revise the screen to include this spectrum when acting on the Clearwire transaction.

This letter is being filed pursuant to Section 1.1206 of the Commission's Rules. Should you have any questions, please contact the undersigned.

Kallen Grill

Sincerely,

cc: (via e-mail)

Renee Gregory
Erin McGrath
Louis Peraertz
David Goldman
Courtney Reinhard
Mindel De La Torre
Ruth Milkman
Julius Knapp

² White Paper at 5 (Figure 1).

³ *Id.* at 8 (Table 5); *see id.* at 6 (Table 3).